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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/553,734	10/20/2005	Takayoshi Tanizawa	HOK-0290	7774
23353 7590 05/31/2007 RADER FISHMAN & GRAUER PLLC LION BUILDING 1233 20TH STREET N.W., SUITE 501 WASHINGTON, DC 20036			EXAMINER THANH, QUANG D	
			ART UNIT 3771	PAPER NUMBER
			MAIL DATE 05/31/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/553,734

Applicant(s)

TANIZAWA ET AL.

Examiner

Quang D. Thanh

Art Unit

3771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6, 7 and 9-12 is/are rejected.
- 7) ☒ Claim(s) 4, 5 and 8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 10/20/05; 11/9/06.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Priority*

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 3 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Re claim 3, the term “a corresponding (?) message parameter” is unclear .

5. Re claim 9, it is not clear how “an optimum block” can be determined based on “a predetermined correlation (?) between the range of message action and body-type information (?), and the body-type information (?) of a user”. It is unclear what kind of correlation and what is the body-type information ?

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Fumihiro et al. (JP Pub. No. 2001-190620).

8. Re claim 1, Fumihiro et al. discloses a method comprising the steps of storing a change in massage speed by a speed altering switch performed in a desired massage stage during an execution of said massage program in a memory, and the altered speed is effective with respect to all the massage operations.

9. Re claim 10, Fumihiro et al. discloses a massage machine comprising: an input unit (switch 21/22); a first memory 12 for temporarily storing the change in massage parameter; a second memory 11; and a control unit 10.

10. Claims 1-3, 6-7, and 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Cutler et al. (6,290,661).

11. Re claims 1-2, Cutler et al. discloses a method of controlling a massage program A or B (col. 4-5) having a plurality of massage stages (program steps) with different massage parameters in a massage machine for providing a massage according to said massage program, said method comprising the steps of storing a change in massage parameter performed in a desired massage stage during an execution of said massage program in a memory (col. 2, lines 61-65), and modifying the desired massage stage according to the change in massage parameter stored in said memory at the next execution of the massage program (columns 3-6); wherein said massage machine is a chair-type massage machine having a backrest portion (fig. 1), in which a massage head 26 for providing a massage action is incorporated (fig. 1), and said massage

parameters comprises the kind of massage action (wave, pulse), range of massage action (zones), the number of massage actions (numbers motors), massage strength (intensity) and massage speed (fig. 2).

12. Re claim 3, as best understood, Cutler et al. discloses that the user can select a change of intensity massage parameter in the desired massage stage, a corresponding intensity in another massage stage other than the desired massage stage can also be changed such that said massage program is completed within a predetermined time period (col. 4-5).

13. Re claims 6-7, Cutler et al. discloses that the user can select a massage program comprises a plurality of massage steps or stages having a same massage parameter, and when a change in massage parameter such as speed performed in one of the massage stages having the same massage parameter is stored in said memory, the massage stages having the same speed are modified in one lump according to the change in massage parameter stored in said memory at the next execution of said massage program; wherein the massage parameter comprises a combination of range of massage action and at least and massage speed, said massage program comprises a plurality of massage steps or stages having a same range of massage action, and the user can change a speed performed in one of the massage steps having the same range of massage action is stored in said memory, the massage stages having the same range of massage action are modified in one lump according to the change in the speed stored in said memory at the next execution of said massage program.

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Re claims 10-12, Cutler et al. discloses a massage machine comprising: an input unit 12/30 ; a first memory and a second memory (col. 2, lines 61-65, col. 3, lines 4-6, and col. 7, lines 9-12); and a control unit 14 (fig. 1); wherein the massage machine is a chair-type 16 massage machine having a backrest portion 22, in which a massage head 26 for providing a massage action is incorporated (fig. 1); a controller 12/30 for a massage machine for providing a massage according to a massage program having a plurality of massage stages with different massage parameters, wherein the controller is detachable to the massage machine (col. 2, lines 48-50), and comprises an input unit 12 configured to input the change in massage parameter and a screen (LED or LCD, col. 6, line 65 to col. 7, lines 6) for displaying the massage parameter.

***Allowable Subject Matter***

14. Claims 4-5 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

15. Claim 9 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Inada et al. discloses a massage chair.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang D. Thanh whose telephone number is (571) 272-4982. The examiner can normally be reached on Monday-Thursday & alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The Central FAX phone number for the organization where this application or proceeding is assigned is (571) 273-8300 for all communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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